***THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

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+W.P.No. 22868 OF 2002 AND W.P. 22656 OF 2002

% 08-08-2005

W.P.No. 22868 OF 2002

#Mandal Revenue Officer, Tirupathi Urban Mandal,

Tirupathi, Chittoor District.

…Petitioner

AND

$1. The Commissioner of Appeals, A.P. Hyderabad and Others

…Respondents

W.P. No. 22656 OF 2002

#1. P. Gopala Reddy and Others. …Petitioners

A N D

$1. The Government of A.P. rep. By its

Principal Secretary, Revenue (JA) Department,

Secretariat Buildings Hyderabad and Others …Respondents.

W.P.No. 22868 OF 2002

! COUNSEL FOR THE PETITIONER: GOVERNMENT PLEADER

^ COUNSEL FOR THE RESPONDENTS : SRI A. RANGACHARYULU

W.P.No. 22656 OF 2002

! COUNSEL FOR THE PETITIONER : SRI P.GANGARAMI REDDY

^COUNSEL FOR THE RESPONDENTS : G.P. FOR REVENUE

< Gist :

> Head Note :

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W.P.No. 22868 OF 2002 AND W.P.No. 22656 OF 2002

COMMON ORDER:

1. These two writ petitions are some what interconnected in a way, the fate of writ petition in W.P.No.22656 depends upon result in W.P.No.22868 of 2002.

2. The Mandal Revenue Officer, Tirupathi, Urban Mandal filed W.P.No.22868 of 2002 with a prayer to issue order more particularly one in the nature of writ of certiorari by calling the records relating to and connected with the order passed by the Commissioner of Appeals, A.P. Hyderabad vide No. P3/1639/99 dated 18-12-2001 and quash the same.

3. P.Gopala Reddy and 17 others filed W.P.No. 22656 of 2002 with a prayer to issue an appropriate writ, order or direction preferably a writ in the nature of mandamus directing the respondents to implement the order of the settlement officer in his proceedings dated 25-10-1982 S.R.No. 65/11(a)/1981 C.T.R. which has been confirmed by the Special Commissioner and Director of Settlement in Revision Petition No. 186/82(H1) dated 30-9-1999 as well as the Commissioner, Appeals, in CCLA No. P3/1639/99 dated 18-12-2001.

4. The parties herein after referred to as they are arrayed in W.P.No. 22868 of 2002.

5. Akkarampalle village was declared as Inam estate and taken over by the Government on 7-1-1959 under the provisions of the A.P. (Andhra Area) Estate Abolition Act, 1948.(herein after refered to ‘the EA Act’). One Doraswami Ayyangar

was owning Ac. 23-83 cents in R.S.No. 46 as pattedar. P.Munuswamy Reddy as member of joint family consisting of himself and his brother P.Ramakrishna Reddy purchased the land under a registered sale deed dated 14.7.1930. The said Doraswami Ayyangar, P. Ramakrishna Reddy and six others filed W.P.No. 5121 of 1997 apprehending assignment of Survey No. 46 in favour of one M.S. Reddy. The said writ petition ended in dismissal on 18-11-1985. I deem it appropriate to refer the order passed in W.P.No. 5121 of 79 for better understanding of the genesis of the case and it is thus:

> *"This writ petition falls to be dismissed on the short ground that the apprehension leading to the filing of the writ petition is found to be untrue. The writ petition was filed on an apprehension that a tank used for irrigation source situate in S.No.46 is going to be assigned in favour of one M.S.Reddy. The petitioner, therefore, contended that so long as the Government did not abandon the tank for purpose of irrigation of the lands belonging to the petitioner as well as the other lands in the neighbouring locality the tank cannot be assigned in favour of somebody else.*
>
> *In the counter filed by the respondents it is stated that the entire ayacut under this tank is proposed to be acquired for the establishment of Autonagar by the A.P.I.I.C. Limited, Hyderabad. It is further stated that the proposal for assignment will have to be taken only after the entire ayacut under this tank is acquired and the source is abandoned. It is also mentioned in the counter that no proposals are finalized or orders are passed for abandoning the tank as yet and therefore the apprehension of the petitioner is unfounded.*
>
> *The aforesaid position stated in the counter continues to govern the situation even now. In the circumstances, the writ petition is dismissed as misconceived. No costs. Advocate's fee Rs.200/-."*

6. Pending disposal of writ petition No. 5121 of 1979, Pulugoru Gopal Reddy-4th respondent filed application before the Settlement Officer, Nellore-3rd respondent under Section 11-(a) of the EA Act, 1948 in respect of Survey No. 46 of Akkarampalle village, Chandragiri Taluk. He contended before the Settlement Officer that the land originally belonging to Tirupathi Doraswamy Aiyengar and the same was purchased by P.Munaswamy Reddy as the member of the Joint Family

consisting of himself and his brother P. Ramakrishna Reddy under the registered sale deed dated 14-7-1930. The other details mentioned in the petition filed before the Settlement Officer are not much relevant for disposal of these writ petitions.

7. The Settlement Officer took the application of P.Gopal Reddy-4th respondent on file as S.R.No.65/11(a)/1981 C.G.R. and ordered notice to the respondent therein i.e. Tahsildar, Chandragiri. The Tahsildar entered appearance and filed counter. Two pleas have been taken by the Tahsildar Chandragiri in the counter. Firstly, admission of the claim petition without there being any application to condone the delay and more so without affording opportunity to the opposite party is unjustified and violative of the principles of natural justice. Secondly, the land in question is required for the future public purposes in fast growing town of Tirupathi. The Settlement Officer, after receiving the counter, posted the matter for enquiry. The Settlement Officer conducted enquiry at places other than Nellore i.e. Kalahasti and Tirupathi. The docket proceedings maintained by the Settlement Officer need to be noted and it is thus:

> "*The parties and the advocate produced documents records and receipts to show their claim for the land and pleaded family dispute and other allied causes are the reasons for the delay.*
>
> *Please Register and send copy of the petition to the Tahsildar and request him to file the counter. Posted to 1-10-1981.*
>
> *Sd-S.O.*
>
> *1-10-1981 Case called party present counsel present-Tech Chandragiri H/o present case posted to 14-10-81 at Tirupathi.*
>
> *Sd/-S.O.*
>
> *14-10-1981 case called. Case adjourned to 24-4-82 at Kalaharthi.*
>
> *Sd/S.O.*
>
> *24-4-82: case called. PW-1 to PW-6 , CW-1 and CW-2 examined. Ex.P-1 to P-2 filed. Case posted to 23-10-1982 for further enquiry.*
>
> *Sd/- S.O.*
>
> *23-10-1982: Case called. Evidence closed. Arguments heard. Case posted for orders.*

Sd- S.O.

25-10-2=1982. Order pronounced.

Sd/-S.O.

8. The Settlement Officer by order dated 25-10-1982 allowed the claim petition and granted ryotwari patta for the land in Survey No. 46 of Akkarampalli village of Chandragiri Taluk in favour of Pulugoru Gopal Reddy-4th respondent, P.Shivanarayan Reddy-respondent NO.13 and vendors of Gopal Reddy namely Y.Balachandraiah, G.Satyanarayana Rao, A.Padmavathamma, P. Chandravathi, Karnam Chalapathi, M.Munikrishna Reddy. P. Bharathi. The extent of the land to which each of them is entitled for grant of ryotwari patta has been detailed in schedule annexed to the order. The schedule reads as follows:-

"Chittoor District, Chandragiri Taluk, Akkarampalle Village

S.No. Extent To whom patta granted

46 23-83 Ac.9-09 cents Pulugoru Ramakrishna Reddy

Pullugoru Gopal Reddy

Ac.0-75 cents Yadaganti Balachandraiah

Son of Raghavaiah

Ac.0-75 " G.Sathyanarayana Rao s/o

Narasimha Rao

Ac.1-00 A.Padmavathamma, w/o A.

Sundararami Reddy

Ac. 1-00 " P.Chandravathi, w/o P.

Anandakrishna Reddy

Ac.0-20 " Karnam Chalapathi

Ac. 0-10 " Mittapalli Munikrishna Reddy

Ac. 0-03 " P.Bharathi

Ac. 2-18 " P.Sreenivasulu Reddy

Ac. 2-18 " P. Sivanarayana Reddy

Ac. 2-18 " P. Ranganatha Reddy

Ac. 2-18 " P.Dwarakanatha Reddy

9. The Director of Settlement took up suo-moto revision i.e. R.P.186/83/(H1) in exercise of powers under Section 5(2) of the EA Act against the order passed by the Settlement Officer, Nellore in S.R.No. 65/11(a)/1981 C.G.R. dated 25-10-1982. On considering the material available on record and on hearing the counsel for parties, the Director of Settlement did not find any flaw in the order passed by the Settlement Officer and accordingly disallowed the revision petition by order dated 30-9-1999.

10. The Mandal Revenue Officer, Thirupathi, Urban Mandal, Chittoor District-the petitioner filed revision under Section 7(d) of the EA Act assailing the order passed by the Special Commissioner and Director of Settlement in R.P.No. 186/83/(HI) dated 30-9-1999 The Commissioner of appeals took the revision on file as P-3/1639/99, and on considering the material on record and on hearing both the parties did not find any reason to interfere with the order passed by the Special Commissioner and Director of Settlement and accordingly dismissed the revision. Hence this writ petition by Mandal Revenue Officer, Thirupathi Urban Mandal, Chittoor District invoking the extra ordinary jurisdiction under Article 226 of the Constitution of India. .

11. P. Gopal Reddy and 17 others filed W.P.No. 22656 of 2002 seeking a direction to the Government of Andhra Pradesh A.P. represented by its Principal Secretary, the District Collector, Chittoor and the Mandal Revenue Officer, Tirupathi, to implement the orders of the Settlement Officer, dated 25-10-1982 as confirmed by the Special Commissioner and Director of Settlement in Revision Petition No.186/83(HI) dated 30-9-1999 as well as by Commissioner of appeals in CCLA Ref.No. P3/1639/99, dated 18-12-2001.

12. Heard the learned Government Pleader for Revenue appearing for the petitioner in W.P.No. 22868 of 2002 and A. Rangacharyulu, learned counsel appearing for Respondents No.4 to 20, 28 and 29 in W.P.No.22868 of 2002 and P. Gangarami Reddy, learned counsel appearing for the petitioners in W.P.No.22656 of 2002.

13. The learned Government Pleader appearing for the petitioner WP 22868 of 2002 submits that entertaining the application filed by P. Gopal Reddy for grant of ryotwari

patta in Survey No. 46 of Akrampally village, Chandragiri Taluk by the Settlement Officer without their being any application to condone the delay is not legal and proper. He further submits that condoning the delay without giving opportunity to the wri tpetitioner i.e. Mandal Revenue Officer, Thirupathi Urban Mandal (then called as Tahsildar, Chandragiri) who is the respondent before the Settlement Officer is in violation of the principles of natural justice. In support of his submissions that the respondent before the Settlement Officer was not heard before condoning the delay, he referred the docket proceedings maintained by the Settlement Officer.

14. A.Rangacharyulu, learned counsel appearing for Respondents in W.P.22868 of 2002 submits that the Mandal Revenue Officer, Thirupathi Urban Mandal filed counter before the Settlement Officer reporting no objection for granting patta to P.Gopal Reddy and others. He further submits that the writ petitioner filed counter before the Settlement Officer admitting the claim of P. Gopal Reddy and others who are claimants before the Settlement Officer. He made copious references to the counter filed by the Tahsildar who is the respondent before the Settlement Officer. I deem it appropriate to refer the relevant portion of the counter affidavit filed before the Settlement Officer and it is thus:

> *"S.No. 46 of Akkarampalli village measuring Ac. 23-83 is classified as Kunta poramboke. The claim petitioners are the sole ayacutdars of the kunta and no others are having iayacut under the Kunta. It is more or less a private kunta intended to serve the interest of the claimant's family. They themselves are claiming the kunta on Ryotwari, patta under Section 11(a) of the E.A. Act. Technically the Government has no interest in the kunta. The kunta has not been repaired by the Government so far. The claimant and his family are repairing the kunta themselves. But as it covers a large chunks of land measuring Ac.23-83 cents situated by the side of the Tirupati-Naidupet Trunk Road at a distance of ½ km from the Tirupati Municipal Limits, it is required for the future needs of the fast growing town of Tirupati. Hence, the claim is highly objectionable and can not be considered under any circumstances."*

15. It is explicit from the above referred counter affidavit that the Tahsildar who is the respondent before the Settlement Officer admitted the claim of the claimants. Virtually, the respondent before Settlement Officer reported no objections for granting ryotwari patta in respect of Survey No. 46 of Akrampally village

admeasuring Ac. 23-83 cents. The Director of Settlement as well as the Commissioner of Appeals had gone into the merits of the case and recorded a finding that the order passed by the Settlement Officer did not require any interference and thereby both the authorities agreed to the findings recorded by the Settlement Officer. Keeping in view the findings recorded by the Director Settlement as well as the Commissioner of the appeals, it is to be examined whether the condonation of delay by the Settlement Officer without hearing the Tahsildar, Chandragiri amounts to violation of principles of natural justice.

16. It is contended by A.Rangacharulu, learned counsel appearing for Respondents that since the respondent before the Settlement Officer did not oppose the claim of P.Gopal Reddy and others, there could be no prejudice caused to the respondent therein in condoning the delay. He further submits that filing a formal petition for condoning delay is not sine quo non for exercising the powers to condone the delay. In support of his submission, reliance has been placed on the decision of our High Court in ***Gorantla Ramachandra Row Vs. Doppalapudi Seshaiah*** **.**

17. Per contra the learned Government Pleader appearing for the petitioner submits that condonation of delay by the Settlement Officer without hearing the respondent therein i.e. writ petitioner herein is in violation of the principles of natural justice.

18. The principle of natural justice does not have a rigid formula. Natural justice has different facets, the requirement to comply with the principle of audi alteram partem and the extent thereof. The doctrine of natural justice does not contain any body of codified canons. As natural justice has a root in fairness, the application thereof would certainly vary from case to case. Although natural justice is being considered to be part of Article 14, the concept has undergone a change. At one point of time non-compliance of the principles of natural justice was considered to be perse having a prejudicial effect, by and by the prejudice theory has been evolved by the Apex Court. The concept of principles of natural justice has undergone a radical change. It is not every case, that the High Courts would entertain a writ application only on the ground that violation of principles of natural justice has been alleged. The Apex Court, in State Bank of Patiala and others Vs. S.K.Sharma, reported in 1996(3) SCC 364 has clearly held that a person complaining about the violation of the principles of natural justice must show causation of a prejudice against him by reason of such violation. The Apex Court has held that the principles of natural justice, may be said to have been violated which require an intervention when no

hearing, no opportunity or no notice has been given.

19. In ***Maneka Gandhi Vs. Union of India,*** the Supreme Court was pleased to observe:

> "*The rules of natural justice are not embodied rules. What particular rules of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the frame work, of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a Court that some principle of natural justice has been contravened the Court has to decide whether the observance of that rule was necessary for a just decision on the facts of the case".*

20. The writ petitioner who is respondent before Settlement Officer has filed counter affidavit admitting the claim of the claimants in respect of Survey No. 46. The Director of Settlement and the Commissioner of Appeals considered the order passed by the Settlement Officer and did not find any reason to interfere with the order of Settlement Officer on merits. Both the authorities have given substantial reason for their not interfering with the order of Settlement Officer granting ryotwari patta in favour of Gopal Reddy and others.

21. In that view of the matter, I do not see any merit in the contention of the Government Pleader for Revenue appearing for the writ petitioners in W.P.No.22868 of 2002 that condonation of delay by the Settlement Officer without affording an opportunity to the writ petitioners is opposed to the principles of natural justice.

22. Accordingly, the writ petition No. 22868 of 2002 is dismissed as devoid of merits. No order as costs.

23. Since the order passed by the Settlement Officer has been confirmed by the two authorities i.e. Director of Settlement and Commissioner of Appeals, there is no justification for the respondent in not implementing the orders.

24. Accordingly, the Writ Petition No. 22656 of 2002 is allowed issuing a direction to the respondents to implement the order passed by the Settlement Officer. No order as to costs.

B.Seshasayana Reddy,J

8th August, 2005

L.R.copy to be marked

B/o

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